

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
ADMINISTRATIVE ADJUDICATION DIVISION

RE: ANDERSON, JUSTIN T.

AAD No. 07-040/F&WA

LOBSTER TRAP ALLOCATION MPURP 001097

FINAL ORDER OF DISMISSAL

This matter came before Hearing Officer Mary F. McMahon on March 7, 2007 for status conference. Applicant Justin T. Anderson had contacted the AAD Administrative Clerk on March 5, 2007 and indicated that he would be withdrawing his request for hearing. He stated that he would not be attending the status conference on March 7, 2007. Mr. Anderson did not file a withdrawal of his request for hearing. Mr. Anderson did not appear at the status conference scheduled for March 7, 2007.

On March 21, 2007, a Conditional Order of Dismissal was entered against the Applicant. Pursuant to the Order, Applicant had until and including March 28, 2007 to show good cause why a Final Order of Dismissal should not be entered for Applicant's failure to appear at the status conference. Applicant has not responded to the Conditional Order of Dismissal.

FINDINGS OF FACT:

A review of the AAD file reveals the following:

1. The Status Conference Order issued to the parties on February 19, 2007 provided that: "If either party fails to appear at the status conference, the Hearing Officer will issue a seven (7) Day Conditional Order of Dismissal/Default against the non-attending party."
2. The status conference was scheduled for March 7, 2007.

3. Attorney Gary Powers appeared on behalf of the Division of Fish and Wildlife on March 7, 2007.
4. Applicant Justin T. Anderson failed to appear at the status conference on March 7, 2007.
5. A Conditional Order of Dismissal was entered against the Applicant on March 21, 2007.
6. Pursuant to the Conditional Order, the Applicant had until and including March 28, 2007 to show good cause why a Final Order of Dismissal should not be entered for Applicant's failure to appear at the status conference.
7. As of the date of this Administrative Order, the Applicant has not responded to the Conditional Order of Dismissal.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, I conclude the following as a matter of law:

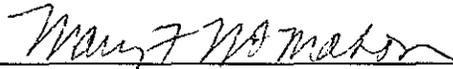
1. Applicant Justin T. Anderson has failed to show good cause why a Final Order of Dismissal should not be entered against him for his failure to appear at the status conference.
2. Applicant Justin T. Anderson is deemed to have waived his right to an adjudicatory hearing on the Lobster Trap Allocation determined by the Division of Fish and Wildlife.

Wherefore, it is hereby

ORDERED

1. Applicant's request for hearing on the Lobster Trap Allocation is herewith DISMISSED.

Entered as an Administrative Order this 5th day of April, 2007 and
herewith recommended to the Director for issuance as a Final Agency Order.



Mary F. McMahon
Hearing Officer
Department of Environmental Management
Administrative Adjudication Division
235 Promenade Street, Third Floor
Providence, RI 02908
(401) 222-1357

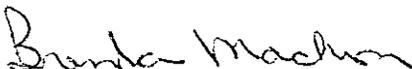
Entered as a Final Agency Order this 6th day of April, 2007.



W. Michael Sullivan, Ph.D., Director
Department of Environmental Management
235 Promenade Street, 4th Floor
Providence, Rhode Island 02908

CERTIFICATION

I hereby certify that I caused a true copy of the within Final Order of Dismissal to be forwarded, via regular mail, postage prepaid to: Justin T. Anderson, 10 Columbia Hts., Charlestown, RI 02813; via interoffice mail to Gary Powers, Esquire, DEM Office of Legal Services, 235 Promenade Street, Providence, RI 02908 on this 6th day of April, 2007.



NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Environmental Management pursuant to RI General Laws § 42-35-12. Pursuant to R.I. Gen. Laws § 42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.